

Occupational Safety and Health Admin., Labor

§ 1952.295

completion, but does not render judgment on adequacy of performance.

[41 FR 8955, Mar. 2, 1976, as amended at 42 FR 64627, Dec. 27, 1977; 46 FR 42844, 42846, Aug. 25, 1981. Redesignated at 52 FR 34383, Sept. 11, 1987]

§ 1952.293 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL-CIO v. Marshall* compliance staffing levels (benchmarks) necessary for a “fully effective” enforcement program were required to be established for each State operating an approved State plan. In July 1986 Nevada, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 11 safety and 5 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on September 2, 1987.

[52 FR 34383, Sept. 11, 1987]

§ 1952.294 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the State met the “fully effective” compliance staffing benchmarks as revised in 1986 in response to a court order in *AFL-CIO v. Marshall*, 570 F.2d 1030 (D.C. Cir 1978), and was satisfactorily providing reports to OSHA through participation in the Federal-State Integrated Management Information System, the Assistant Secretary evaluated actual operations under the Nevada State plan for a period of at least one year following certification of completion of developmental steps. Based on an 18(e) Evaluation Report covering the period July 1, 1995 through March 31, 1999, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Nevada’s occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29

CFR Part 1902. Accordingly, the Nevada plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective April 18, 2000.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Nevada. The plan does not cover Federal government employers and employees; any private sector maritime activities; employment on Indian land; any contractors or subcontractors on any Federal establishment where the land is determined to be exclusive Federal jurisdiction; and the U.S. Postal Service (USPS), including USPS employees, contract employees, and contractor-operated facilities engaged in USPS mail operations.

(c) Nevada is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[65 FR 20742, Apr. 18, 2000, as amended at 65 FR 36627, June 9, 2000]

§ 1952.295 Level of Federal enforcement.

(a) As a result of the Assistant Secretary’s determination granting final approval to the Nevada State plan under section 18(e) of the Act, effective April 18, 2000, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Nevada Plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under section 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the